IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 2739 of 2005

Between:

P. Narayana, S/o. Kistappa,
APSRTC, Wanaparthy Bus Depot,

Mahabubnagar District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC,

Wanaparthy Bus Depot,

Mahabubnagar District.
2 The Regional Manager, APSRTC,

Mahabubnagar Region, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents in not paying the gratuity amount to the petititioner for the out of employment period i.e., from 6-11-1975 to 15-2-1983 (i.e., from the date of removal to the date of reinstatement) as illegal, arbitrary, bad and contrary to the judgments/ award and consequently direct the respondents to pay the gratuity for the said period and pass such other order or orders.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY, Standing Counsel for APSRTC.

The Court made the following :

ORAL ORDER:

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This writ petition is filed by the petitioner aggrieved by the action of the respondents in not paying the gratuity amount due to him for the period during which he was out of service i.e., from
06-11-1975 to 15-02-1983, as a result of an order of removal passed by the respondent-Corporation, which was set aside by the Labour Court by an award in I.D.No.151 of 1980 dated
07-05-1982.

According to the petitioner, the Labour Court while setting aside the order of removal passed by the Corporation, ordered reinstatement of the petitioner with continuity of service. When once the benefit of continuity of service has been awarded to the petitioner, the petitioner is entitled for payment of gratuity also.
With reference to the period during which he was out of service as a result of an order of removal which was set aside, during the time of hearing, the learned Counsel for the petitioner relied upon an order of this Court in ***'M.Rama Rao v. Asst. Traffic Manager, APSRTC, Hyderabad and another',*** wherein a learned single Judge of this Court held that the Management cannot deny the payment of gratuity to the employee on his retirement for the period during which he was out of employment as a result of an order of removal which was set aside by the Labour Court. Therefore, in the light of the said judgment and the order of the award of the Labour Court, the petitioner sought for a direction.

The learned Counsel for the respondent-Corporation though opposed as to the entitlement of the benefit, but however, he could not dispute as to the award as well as the judgment of this Court.

In the light of the award passed by the Labour Court awarding the benefit of continuity of service, and also as per the orders of this Court, an employee who was removed from service and ordered reinstatement with continuity of service is entitled for the benefit of gratuity even for that period for which he was out of service. Under the above circumstances, the petitioner is also entitled for payment of gratuity for the period for which he was out of service as a result of an order of removal, which was set aside by the Labour Court.

Therefore, the respondents are directed to pay the gratuity to the petitioner for the disputed period for which he was out of service, within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. No costs.

23-06-2005

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Copy to:

1 The Depot Manager, APSRTC,

Wanaparthy Bus Depot,

Mahabubnagar District.

2 The Regional Manager, APSRTC,

Mahabubnagar Region, Mahabubnagar District.

3 Two CD copies.